

**IN THE JUSTICE OF THE PEACE COURT NO.16
OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY**

Delaware State Housing Authority,	:	
	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. JP16-10-001525
	:	
Cassandra Brown,	:	
	:	
Defendant.	:	

A trial *de novo*, in reference to a Landlord/Tenant Summary Possession suit, was held on May 20, 2010 between Delaware State Housing Authority and Cassandra Brown.

Plaintiff, Delaware State Housing Authority, appeared represented by Katrice Obidike, an agent on the current Form 50.
Defendant, Cassandra Brown, appeared *pro se*.

Trial De Novo

Judges James A. Murray, Ernst M. Arndt, and Michael P. Sherlock comprised the special court, pursuant to 25 Del. C. § 5717(a).¹

History of Petition

Plaintiff filed a Landlord/Tenant Summary Possession petition with this court seeking \$119.00 in back rent through the month of March 2010, accrued rent, late fees, court costs, and possession of the rental unit at #39 Mifflin Meadows Lane, Dover DE, 19901. Trial was held in Justice of the Peace Court 16 on May 5, 2010. The Plaintiff prevailed and judgment² was entered against the Defendant. Thereafter, the Defendant filed a timely appeal and this matter was scheduled for a trial *de novo*.

¹ 25 Del. C. § 5717(a). *Nonjury trials*. With regard to nonjury trials, a party aggrieved by the judgment rendered in such proceeding may request in writing, within 5 days after judgment, a trial *de novo* before a special court comprised of 3 Justices of the Peace other than the Justice of the Peace who presided at the trial, as appointed by the chief magistrate or a designee, which shall render final judgment, by majority vote...

² *Delaware State Housing Authority v. Brown*, Del. J.P., C.A. No. JP16-10-001525, Dillard, J. (May 5, 2010).

Plaintiff's Testimony

Plaintiff testified she sent a 5 day letter³ via certificate of mailing⁴ dated March 10, 2010 (Plaintiff's Exhibits 1 & 2). Plaintiff testified the Defendant had paid a total of \$600.00 back rent between March 19th and March 22nd of 2010 which brought the balance owed by the Defendant to \$119.00. Upon each payment, the Plaintiff personally served the Defendant a Reservation of Rights⁵ notice (Plaintiff's Exhibits 4 & 5) informing her they still reserved the right to file for summary possession and terminate the Rental Agreement.⁶ Plaintiff testified that paragraph 2 of the lease agreement states rent is due on the first day of each month.⁷ Plaintiff presented the Post Leasing Checklist⁸ signed by both parties.

Defendant's Testimony

The Defendant acknowledged she was indeed late with the March 2010 rent as she had to pay her utilities. She testified the initial lease she signed June 2006 only required her to pay \$52.00 per month. The subsequent Fair Market Value Lease, signed in August 2009, required her to pay \$685.00 monthly. Defendant presented an invoice⁹ sent to her by the Plaintiff charging \$685.00 for May 2010 rent and late fees for April 2010 of \$34.00, and unpaid balance of March 2010 rent of \$85.00. She further provided to the Court copies of money order receipts¹⁰ showing the Defendant paid the \$804.00 balance due between May 1st and May 4th of 2010. Defendant acknowledged owing the money and that these payments were late, but asked the Court for leniency in its decision.

³ Plaintiff's Exhibit #1.

⁴ Plaintiff's Exhibit #2.

⁵ 25 Del. C. § 5502 (c). *Landlord remedies for failure to pay rent*. If a tenant pays all rent due before the landlord has initiated an action against the tenant and the landlord accepts such payment without a written reservation of rights, the landlord may not then initiate an action for summary possession or for failure to pay rent.

⁶ Plaintiff's Exhibit #6. Lease Agreement signed by the Plaintiff and the Defendant dated September 1, 2009.

⁷ *Id.*

⁸ Plaintiff's Exhibit #7.

⁹ Defendant's Exhibit #1.

¹⁰ Defendant's Exhibit #2.

Analysis of Review & Discussion

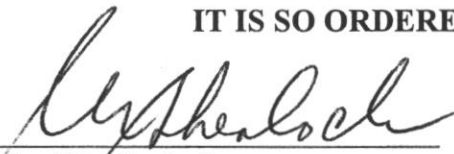
Plaintiff presented the lease agreement and Post Leasing Checklist¹¹ signed by each party. Plaintiff presented as evidence a valid 5 day letter¹² with the appropriate proof of mailing¹³ informing the Defendant of the consequences of not paying the rent in full on or before the expiration of the grace period which ended March 17, 2010. Plaintiff entered into evidence two (2) Reservation of Rights letters presented to and signed by the Defendant indicating the Plaintiff may still seek summary possession despite the two (2) partial payments made by the Defendant. All documents were admitted without objection. Defendant presented the May 2010 invoice sent by the Plaintiff and copies of three (3) money order receipts showing that rent was now current.

Conclusion

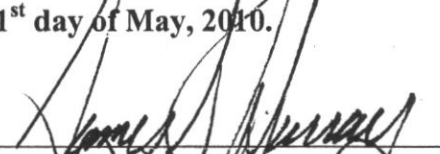
The Court finds by a preponderance of evidence and by unanimous vote the Defendant, by her own admission, failed to pay her rent on the 1st day of the March 2010 as required by the lease agreement and further failed to cure the defect after proper notice pursuant to 25 Del C. § 5502 (a). Therefore, the Court enters **Judgment for the Plaintiff for Possession and Court Costs of \$40.00.**

The Court announced its decision in open court and reduced it to writing this date.

IT IS SO ORDERED this 21st day of May, 2010.



Michael P. Sherlock
Justice of the Peace



James A. Murray
Justice of the Peace



Ernst M. Arndt
Justice of the Peace

¹¹ Defendant acknowledged that she understood rent was due on the first day of the month pursuant to the lease agreement and Post Leasing Checklist.

¹² 25 Del. C. § 5502 (a). *Landlord remedies for failure to pay rent.* A landlord or the landlord's agent may, any time after rent is due,...demand payment thereof and notify the tenant in writing that unless payment is made within a time frame mentioned in such notice, to be not less than 5 days after the date notice was given or sent, the rental agreement shall be terminated. If the tenant remains in default, the landlord may thereafter bring an action for summary possession of the dwelling unit...

¹³ 25 Del. C. § 5513 (b). *Service of notices or pleadings and process.* In lieu of personal service by copy of the notice or process required by this Code, a copy of such notice or process may be sent by registered, certified, or 1st-class mail as evidenced by a certificate of mailing postage-prepaid, addressed to the tenant at the leased premises,...